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10/806,572	03/22/2004	Judith Klugman	271189US28	2201
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER TRAN, HAI	
			ART UNIT 3694	PAPER NUMBER
			NOTIFICATION DATE 06/19/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/806,572

Applicant(s)

KLUGMAN, JUDITH

Examiner

HAI TRAN

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-12 and 15-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7, 10-12 and 15-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This is the **Final Office Action** in response to the Remarks/Arguments filed on April 16, 2009 for application, titled: "Flexible Catastrophe Bond".
2. Claims 8, 9, 22 and 23 have been cancelled. Claims 13 and 14 had been previously cancelled. Claims 1, 10, and 15 have been amended. Accordingly, claims 1-7, 10-12, and 15-21 remain pending in this application and have been examined.

Priority

3. This application claims the benefit of U.S. Provisional Patent Application No. 60/457,423, filed on 03/24/2003.

Claim Rejections - 35 USC § 101 (old)

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-7 and 10-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
6. Claims 1-12 were rejected under 35 USC 101 in the previous Office Action. Applicant has amended claims 1 and 10 in an attempt to overcome the rejection.
7. The Examiner disagrees. The claims are directed to non-statutory subject matter. The fact that Applicant states that "implemented on an electronic terminal at a reinsurer" is not a positive recitation. Applicant's use of an electronic terminal is insignificant because the critical steps of calculating the risks to determine when to

issue a risk instrument are not seen in the claims. In addition, the claims have no transformation to another statutory class (do not transform the subject matter). The mere establishing (receiving) and issuing (distributing) risk instrument (non-functional material) is not a transformation because the receiving and distributing are insignificant and the risk instrument is a legal contract which is not statutory subject matter. Therefore, the rejection remains stayed.

Response to Arguments

8. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-7, 10-12, and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nafeh et al. (U.S. Patent Application Publication No. 2002/0069155) ("Nafeh") in view of General Accounting Office ("Catastrophe Insurance Risks, The Role of Risk-Linked Securities and Factors Affecting Their Use", dated September 2002) ("GAO").

13. **With respect to Claim 1**, Nafeh teaches a method of securitizing natural catastrophe risk, implemented on an electronic terminal at a reinsurer, comprising:

establishing one or more risk classes at the electronic terminal of the reinsurer (see Nafeh, par. 10 "catastrophic events"), each risk class representing one or more natural catastrophe risks (see GAO, pages 3-5 "catastrophe risk"), each risk class being recurrently issuable from at the electronic terminal of the reinsurer as risk instruments providing a return on an investment (see Nafeh, par. 59-60 "pays off a nonzero value in one state of nature, and \$0 in all other states of nature at date T"; par. 416 "types of risk instruments which can be traded"; claim 11 "a recurring regular occurrence"), the amount of the return for a risk instrument being contingent upon the occurrence of a realization event for the corresponding represented natural catastrophe risk (see Nafeh,

par. 37 "upon the happening of the future possible outcome of the phenomenon associated with that particular risk management contract"); and

issuing from the electronic terminal at the reinsurer, a first collection of risk instruments of a first risk class of the one or more risk classes (see Nafeh, par. 39 "are traded in an individual market");

the realization event for a given risk class is defined as an occurrence of an event meeting a predetermined impact threshold (see Nafeh, par. 55 "realized outcome of contingent events"), and

the occurrence of an event meeting a predetermined impact threshold is determined according to an index of physical parameters issued by a neutral party; wherein said physical parameters are related to but separate from catastrophic loss (see GAO, page 4 "earthquake reaching 7.2 or higher in moment magnitude" and footnote 8).

Nafeh teaches a system and methods for trading of risk management contracts, but does not expressly disclose catastrophe risks. However, GAO teaches the catastrophe insurance risks and how to securitizing the catastrophe risks. Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nafeh invention to include the features of catastrophe risk securitization to offer an improved system and method to achieve different risk and return profiles to customers.

14. **With respect to Claim 2**, Nafeh does not expressly teach such feature. However, GAO teaches that the method of claim 1, wherein the one or more risk classes include a plurality of risk classes each representing an individual natural catastrophe risk, and one or more risk classes representing a combination of natural catastrophe risks represented by two or more of the plurality of risk classes (see GAO, page 3, par. 2 "multiple catastrophic events"). One of ordinary skill in the art would have combined the teachings of Nafeh and GAO to offer an improved system to customers.

15. **With respect to Claim 3**, Nafeh does not expressly teach such feature. How GAO teaches that the method of claim 2, wherein the individual natural catastrophe risks are not correlated (see GAO, page 5, par. 2 "risks are generally uncorrelated"). One of ordinary skill in the art would have combined the teachings of Nafeh and GAO to offer an improved system to customers.

16. **With respect to Claim 4**, Nafeh teaches that the method of claim 1, wherein issuing the first collection of risk instruments includes issuing the first collection of risk instruments on a first issue date; the method further comprising:

issuing a second collection of risk instruments of the first risk class on a second issue date, the second issue date being after the first issue date (see Nafeh, par. 68).

17. **With respect to Claim 5**, Nafeh teaches that the method of claim 4, wherein the risk instruments of the first risk class have an associated plurality of terms, the plurality

of terms including class terms and series terms, the class terms being defined for all risk instruments of the first risk class during the establishing of the first risk class, the series terms being defined for risk instruments of a given collection of risk instruments of the first series at the time of issuance of the collection, the series terms including an interest spread defining an amount payable to an investor, and a maturity date defining a date on which a principal amount will be returned to the investor if no realization event has occurred (see Nafeh, par. 59-68).

18. **With respect to Claim 6**, Nafeh does not expressly teach such feature. How GAO teaches that the method of claim 1, wherein the risk classes represent natural catastrophe risks selected from the group consisting of hurricanes, windstorms, floods, and earthquakes (see GAO, page 3, par. 2 “natural disasters, such as hurricanes, earthquakes, and tornadoes”). One of ordinary skill in the art would have combined the teachings of Nafeh and GAO to offer an improved system to customers.

19. **With respect to Claim 7**, Nafeh does not expressly teach such feature. How GAO teaches that the method of claim 1, wherein the risk classes categorize natural catastrophe risks by region or by time period (see GAO, Figure 1 and description, page 18, par 2 “broad region indexes”). One of ordinary skill in the art would have combined the teachings of Nafeh and GAO to offer an improved system to customers.

20. **With respect to Claims 10-12**, these claims correspond to claims 1-7 including receiving and distributing the financial instruments and have the same limitations as in

claims 1-7. Hence, they are rejected under the same rationale provided in claims 1-7 (see Nafeh, par. 255 "distribution").

21. **With respect to Claims 15-23**, these claims include the computer-executable programs for implementing the method claims 1-7 and 10-12 and have the same limitations as in claims 1-7 and 10-12. Hence, they are rejected under the rationale provided in claims 1-7 and 10-12.

Conclusion

22. Claims 1-7, 10-12, and 15-21 are rejected.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI TRAN whose telephone number is (571)272-7364. The examiner can normally be reached on M-F, 9-4 PM.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. T./

Examiner, Art Unit 3694

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694